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Letter dated 18 September 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/409).

The Counter-Terrorism Committee has received the attached supplementary report from Myanmar submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 5 September 2002 from the Permanent Representative of Myanmar to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

I have the honour to transmit herewith a supplementary report requested by the Counter-Terrorism Committee in your letter of 1 April 2002, pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001 (see enclosure).

(*Signed*) Kyaw Tint **Swe**
Ambassador
Permanent Representative

Enclosure

Supplementary report of the Union of Myanmar to the Counter-Terrorism Committee, pursuant to paragraph 6 of resolution 1373 (2001) of 28 September 2001

Response and clarification with reference to the letter of the Chairman of the Counter-Terrorism Committee dated 1 April 2002*

Sub-paragraphs 1 (a) and (b)

1. There are two laws in Myanmar, which contain explicit provisions for preventing, suppressing and criminalizing the financing of terrorist acts; namely- Control of Money Laundering Law of 2002 and the Law for Taking Action Against Owning and Marketing of Properties Obtained by Unlawful Means, 1986. These two laws are supplemented by the regulations and directives issued by the Central Bank of Myanmar. The Control of Money Laundering Law enacted on 17 June 2002 stipulated that it shall apply to the offences of illegally converting, transferring, concealing, obliterating or disguising of money and property obtained from the commission of any of the offences including offences committed by acts of terrorism. **(Annex A)**. The Law for Taking Action Against Owning and Marketing of Properties Obtained by Unlawful Means, 1986 was promulgated as follows:-

Section 3: In order to investigate on ownership and marketing of properties obtained by unlawful means -

(a) the Council of Ministers may form the necessary body;

(b) only the body that has been assigned duty or formed by the Council of Ministers has the right to carry out the investigation.

Section 4: Only when the Body receives the order of the Council of Ministers, it shall commence investigation on ownership and marketing of properties obtained by unlawful means.

Section 5: In conducting investigation, the Body -

(a) may call for necessary evidence from the person concerned and examine;

(b) may examine the necessary witnesses;

(c) on finding that the person under investigation had acquired any property with his own money in the name of any other person may also examine the person whose name was used in respect of the said property;

* The annexes are on file with the Secretariat and are available for consultation.

(d) has the right to enter, examine and search the building or premises permitted to be investigated. With respect to the properties that are found, it has the right to carry out in accordance with the procedures.

Section 6: The Council of Ministers may, on receiving the findings of the Body and if it considers that further investigation is required, direct investigation to be conducted by the original investigation body or newly-formed body.

Section 7: The Council of Ministers shall -

(a) on finding that the person who is under investigation had acquired the property with money obtained by lawful means, close the investigation;

(b) on finding that the person who is under investigation had acquired the property under his own name or by using the name of another person with money obtained by unlawful means pass an order to confiscate the said property;

(c) on finding that the person who is under investigation had acquired the property, part of the value of which with money which was obtained by unlawful means and the remaining value with money obtained by lawful means, carry out in accordance with the procedures regarding the said property.

Section 8: The Council of Ministers shall -

(a) on finding that, any property which is under investigation by the Body, was sold or transferred in any manner, during the investigation period, pass an order to confiscate the said property;

(b) on finding that the person who is under investigation destroyed or acted with intention to cause destruction of any property which is entrusted to him in accordance with the procedures, pass an order to confiscate the said property;

(c) if destruction is caused to any property which is entrusted under sub-section (b), pass an order to cause payment to be made by the person who is under investigation, after determining the value of the property so destroyed.

Section 9: The Council of Ministers shall, on finding that any property which is being investigated has been acquired with money obtained lawfully, and if the property is temporarily seized in accordance with the procedures, pass an order to return the said property to the person who is under investigation.

Section 10: The Council of Ministers shall, before passing an order, give the right of defence to the person who is under investigation.

2. The Central Bank of Myanmar has scrutinized whether any bank accounts of economic resources related to terrorist organizations have been opened at the State-owned banks or private banks in the Union of Myanmar. It was found that no such accounts have been opened.

3. Directive No. 2/2002 dated 7 March 2002 was also issued by the Central Bank of Myanmar notifying the State-owned banks, private banks and their branches to freeze the funds and financial assets related to terrorists / terrorist organizations. The banks are to notify the Central Bank of Myanmar immediately, if there are economic resources related to terrorist groups and individuals at the State-owned banks and private banks, without permitting withdrawal thereof and to carry out with constant care so that accounts may not be opened and deposits and transactions may not be made. **Annex (B)**

Sub-paragraph 1 (c)

4. Persons who commit terrorist acts as described in sub-paragraph 1 (c) are taken action under the above-mentioned law for Taking Action Against Owning and Marketing of Properties Obtained by Unlawful Means. Investigation and seizure may be made for prevention of financial assistance to any terrorist acts or for undisclosed money or proceeds of crime of individuals and organizations. In addition to the above-mentioned law and directive, the Control of Money Laundering Law was promulgated on 17 June 2002 to take action against such persons described in sub-paragraph 1 (c).

Sub-paragraph 1 (d)

5. In Myanmar, under section 7 and 8 of the law for Taking Action Against Owning and Marketing of Properties Obtained by Unlawful Means, 1986 an order can be passed to seize the said property. Additionally, action can be taken under Directive No. 2/2002 dated 7 March 2002, to freeze the accounts without allowing withdrawal thereof.

Sub-paragraph 2 (a)

6. In Myanmar, which has suffered terrorism for decades, effective measures against terrorists are taken under two laws. The first of these, the Unlawful Associations Act of 1908 was promulgated to take action against the members of terrorist organizations and its supporters. **Annex (C)**

7. For effective prevention and suppression of terrorism, action can also be taken under section 5 of the Emergency Provisions Act of 1950 if anything is done intentionally to affect the security of the Union and

restoration of Law and order. The Emergency Provisions Acts **(Annex (D))** prescribes the following punishments in Section 6 and 6.A.:-

Section 6: Whoever does any act with the intention of deteriorating or obstructing or destroying the capabilities and power-

(a) of the building or vehicle or machinery or equipment or other property used or intended to be used for Government purpose;

(b) of the road, bridge, drainage-crossing, embankment, port or dockyard;

(c) of the building or other object or sanitary installation or mine or factory used in respect of the manufacture, distribution or supply of essential goods;

(d) of the prohibited place or the protected place;

(e) of the water-supply work, pipe connections or machine or apparatus or other things related to water-supply

shall be punished with imprisonment for a term which may extend to 7 years, or with fine, or with both.

6.A (1) Whoever with the intention of causing extreme suffering to the public or loss of lives or of endangering the lives or security of the public, or knowing that extreme suffering will befall the public or lives will be lost or that the lives or security of the public will be endangered, destroys or causes to destroy-

(a) public train, motor vehicle, vessel, aircraft or other vehicle;

(b) public road, railway-line, railway-bridge or other bridge;

(c) public reservoir, water-supply work and pipe connected thereto;

(d) public dam;

shall be punished with death.

(2) Whoever with the intention of causing extreme suffering to the public or loss of lives or of endangering the lives or security of the public, or knowing that extreme suffering will befall the public or lives will be lost or that the lives or security of the public will be endangered, uses a mine or dynamite in any manner to destroy any object mentioned in sub-section (1) shall be punished with death.

(3) Notwithstanding anything contained in sub-section (1) and (2), any person who commits any offence mentioned in sub-section (1) or (2) under coercion and intimidation shall be punished with imprisonment of any type for a term which may extend to 7 years.

Sub-paragraph 2 (b)

8. For the prevention and opposing of terrorist acts including investigation and exposing of potential terrorist acts, there is cooperation among the Armed Forces, Myanmar Police Force, Department of Special Investigation and the Department of Immigration and National Registration that comprise the National Intelligence Bureau. Terrorism and Narco-terrorism are closely related. For international cooperation, Central Committee on Drug Abuse Control (CCDAC) has been assigned duty to contact INTERPOL and ASEANAPOL as the contact point.

9. Myanmar has been conducting suppression of transnational organized crimes in cooperation with ASEAN countries. Further, suppression of trafficking in narcotic drugs has been carried out under bilateral treaties between Myanmar and neighbouring countries which are Thailand, Laos, China, India and Bangladesh. Myanmar, in cooperation with the said countries is conducting prevention and control of terrorist activities. Lawful border-crossing is allowed making use of Cross-border Certificates recognized by the respective countries. Legal action has also been taken after exposing counterfeit notes and forged national registration cards.

Sub-paragraph 2 (e)

10. Actions can be taken against persons who commit acts of terrorism as described in 2 (e), under the Unlawful Associations Act and the Emergency Provisions Act. Under these laws terrorist acts are regarded as serious criminal offences and are punishable by sentences ranging from 7 years imprisonment to death penalty reflecting seriousness attributed to such terrorist acts. A citizen of any State who commits terrorist act in Myanmar has legal action taken against him under the existing laws of Myanmar. Moreover, if a Myanmar citizen commits an offence in a foreign country, legal action is taken against him under the laws of Myanmar, additional to the actions taken by host country under its laws.

Sub-paragraph 2 (g)

11. The Union of Myanmar has been cooperating with Thailand, Laos, China, India and Bangladesh in border security matters and bilateral relations. Activities of the terrorists are being controlled in cooperation with these countries. Citizenship Scrutiny Cards for Myanmar citizens have been systematically made and issued by the Department of Immigration and National Registration. In Myanmar, three kinds of passports are issued as follows:-

(a) Diplomatic Passport (Blue colour)

(b) Official Passport (Green colour)

(c) Ordinary Passport (Red colour)

12. To apply for Myanmar passport, the applicant has to fill the personal data correctly on the Passport Application Form attached with other relevant supporting documents. Regarding the applicant, four departments which are

Military Intelligence Command, Bureau of Special Investigation, Intelligence Unit and Criminal Registration Office scrutinize and submit together with their remarks to the Myanmar Passport Issuance Board that is held for issuance of passports.

13. To prevent forgery of Myanmar passport, the following security arrangements have been made:-

(a) Making use of papers having multi-coloured waves;

(b) Inclusion of State seal watermark on every paper;

(c) Perforating passport numbers on every paper up to half of the booklet;

(d) Numbering up to 48 pages in serial order;

(e) Sealing with the State seal (in embossed print) on the photograph of the holder;

(f) Signing by the Issuing Officer (the Secretary of the Passport Issuance Board) on the photograph;

(g) Covering the page that contains the photograph by laminated tape having security mark on the said laminated tape;

(h) Firm binding of the passport booklet;

(i) Recording the number that was issued and its endorsements in the registration book.

14. **Examining the Entry Traveller (Foreigner)**

A combined inter-agency bodies comprising of the Myanmar Army, Myanmar Police Force, Department of Immigration and National Registration and Department of Customs examine and allow the foreigners who come into the country at the designated border area immigration examination gates. The Immigration and National Registration Department ensures that people come into Myanmar with legal passport and visa and prevents the use of counterfeit documents based on the following procedures:-

(a) **Examining the Passport**

When the Immigration personnel at the Examination Counter receives the passport in hand, he examines in general the following, to ensure the authenticity:-

(1) the integrity of the passport;

(2) whether the security markings by the relevant country are included in the front and back covers of the passport;

(3) whether any of the pages are substituted;

(4) whether the watermarks and reflection marks of the respective country in the passport are authentic;

(5) whether the photograph in the passport is substituted or altered in any manner;

(6) ensure the authenticity of the signature of the issuing authority;

(b) **Further Examination**

If the passport is genuine, it is checked with the Black List in the computer. The following are further examined:-

(1) whether the photograph in the passport corresponds to the bearer;

(2) validity of the passport;

(3) country endorsement;

(4) whether the passport contains a valid visa;

(5) Arrival Card which is filled in completely;

(6) Arrival report and application for entry visa.

(c) **Examination in detail**

If a doubtful fact is found in examining as contained in above sub-paragraphs (a) and (b), further examination is done by the skilled Passport Examination Special Body as follows:

(1) whether there are relevant ultra-violet ray and seals relating to security markings;

(2) checking with the sample passport received from the relevant embassy;

(3) checking with the specimen signatures of the person authorized to sign in the passport received from the relevant embassy.

15. **Examining the Departure traveler (Foreigner)**

When the foreigner travelers who were examined systematically according to the above paragraph are allowed to come into the country, on departure from the country, they are examined as follows;-

(a) The foreigner who has been prosecuted and was contesting a suit/case at the courts and police stations are checked with the Black List so that he may not abscond abroad.

(b) The foreigners who are not in the Black List are examined in respect of the following and are allowed to depart:-

(1) whether it is a valid passport or not;

(2) Departure Card;

(3) whether the departure is within the period of stay permit or not;

(4) whether he has entered from the authorized entry point;

(5) if he has overstayed of the tenure of stay permit, the stipulated fine shall be paid;

(6) if he is the person who stays over 30 days, whether he has the valid Departure Form with him or not;

(7) if he is the person who stays over 90 days, whether he has the Foreigner Registration Card (FRC) with him or not.

16. In future, the systems of e-Passport Examination devices will be installed, used and carried out at the entry and exit of the international airport.

Sub-paragraphs 3 (a) and (b)

17. For the implementation of the Security Council Resolution 1373(2001), the focal points of Myanmar are the International Organizations and Economic Department, Ministry of Foreign Affairs, Yangon and the Permanent Mission of the Union of Myanmar to the United Nations, New York.

Sub-paragraph 3(c)

18. To prevent and suppress terrorist attacks and to take action against perpetrators of such acts, Myanmar has bilateral cooperation arrangement with the neighbouring countries. Myanmar is cooperating with the People's Republic of China under the Protocol for Security and Cooperation of Border Areas. It has also formed Administrative Committees for Border Areas with Thailand, and is co-operating with civilian authorities of border areas of India. Further more, Myanmar is cooperating with the neighbouring countries of Thailand, Laos, China, India and Bangladesh on control of narcotic drugs. On 1 August 2002, Myanmar together with other members of ASEAN has signed the United States-ASEAN Joint Declaration for Cooperation to Combat International Terrorism.

Sub-paragraph 3(d)

19. Myanmar is already a party to the following four conventions and a protocol related to suppression of terrorism:-

(a) International Convention for the Suppression of Terrorist Bombings adopted by the United Nations General Assembly on 15 December 1997;

(b) Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Tokyo on 14 September, 1963;

(c) Convention for the Suppression of Unlawful Seizure of Aircraft signed at the Hague on 16 December, 1970;

(d) Convention for the Suppression of Unlawful Acts against the safety of Civil Aviation signed at Montreal on 23 September, 1971;

(e) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation signed at Montreal on 24 February, 1988.

- It is also signatory state to the International Convention for the Suppression of Financing of Terrorism adopted by the United Nations General Assembly on 9 December, 1999;

Sub-paragraph 3(c)

20. Myanmar has not entered into extradition treaty with any country. However, she is cooperating with the neighbouring countries on case-by-case basis. Further more, relevant offences are being dealt with effectively under the domestic laws of Myanmar.

Sub-paragraphs 3 (f) and (g)

21. Myanmar does not permit political asylum to any person.

Paragraph 4

22. Myanmar has been combating the transnational crimes and organized crimes in cooperation with INTERPOL and ASEANAPOL.

Other Matters

23. Myanmar is against all forms of terrorism. The prevention and suppression of terrorism have been carried out through the effective cooperation of the Myanmar Armed Forces, Myanmar Police Forces, People's Militia and Peace groups of nationalities. In carrying out such suppression the following assistance are required under the present situation of Myanmar:-

(a) Techniques and training to combat terrorism;

(b) Equipment and instruments for combating terrorism;

(c) Machines and equipments to detect the authenticity of documents and

(f) Financial assistance for counter-terrorism.